



The Internet & Television Association
25 Massachusetts Avenue, NW | Suite 100
Washington, DC 20001
(202) 222-2300

Stephanie L. Podey
Vice President &
Associate General Counsel
o (202) 222-2445 e spodey@ncta.com

November 9, 2016

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Video Description: Implementation of the Twenty-First Century
Communications and Video Accessibility Act of 2010 (“CVAA”), MB Docket
No. 11-43**

Dear Ms. Dortch:

Diane Burstein, Vice President and Deputy General Counsel, Jill Luckett, Senior Vice President, Program Network Policy, and I, of NCTA – The Internet & Television Association (“NCTA”), met on November 7, 2016 with Matthew Berry, Chief of Staff to Commissioner Ajit Pai; on November 8, 2016 with David Grossman, Chief of Staff and Media Policy Advisor to Commissioner Mignon Clyburn; and separately with Marc Paul, Legal Advisor, and Jennifer Thompson, Special Advisor and Confidential Assistant to Commissioner Jessica Rosenworcel; and on November 9, 2016 with Robin Colwell, Chief of Staff and Senior Legal Advisor, Media to Commissioner Michael O’Rielly; and separately with Holly Saurer, Legal Advisor, International and Consumer & Governmental Affairs to Chairman Tom Wheeler, regarding the above-captioned proceeding.

We explained in each of these meetings that NCTA member companies are committed to providing video-described programming. Indeed, the amount of such programming is not limited to satisfying current regulatory requirements, but includes a growing library of described programming.¹ However, consistent with our comments in this proceeding, we stressed that certain proposals contained in the *Notice* in this proceeding exceed the Commission’s authority under the CVAA and should not be adopted.² While Congress granted the Commission authority to increase the number of hours of video described programming assuming certain showings are made, we emphasized that any increase in the number or nature of nonbroadcast networks

¹ See NCTA Comments at 1; Time Warner Inc. (“TWI”) Reply Comments at 2; *see also* NAB Comments at 2. Unless otherwise indicated, all comments and reply comments cited herein were filed in MB Dkt. No. 11-43 on June 27, 2016, and July 26, 2016, respectively.

² See NCTA Comments at 3-13.

covered by the rules, adoption of a “no backsliding” rule, or extension of any video description obligations to programming offered on a video-on-demand basis would be inconsistent with the CVAA.³

We emphasized that any increase in the required number of video-described hours should include built-in flexibility (including permitting additional repeat airings of a described program to count toward satisfaction of the video description requirement).⁴ Even under the current rules, covered networks may have challenges in meeting their 50-hour obligation in a given calendar quarter if they do not have sufficient prime time and children’s programming. We pointed out that this issue would only be exacerbated with an increase in the number of hours of mandated video-described programming.⁵ Finally, we urged the Commission to adopt reasonable implementation periods for any new rules, taking into account the need for companies to establish budgets and to thoughtfully determine which programs to describe.⁶

Respectfully submitted,

/s/ Stephanie L. Podey

Stephanie L. Podey

Attachments

cc: Matthew Berry
Robin Colwell
David Grossman
Marc Paul
Holly Saurer
Jennifer Thompson

³ See *id.* at 5-11.

⁴ See *id.* at 13-16. We shared the attached handouts to illustrate the limited number of hours and the need for flexibility. The handouts show the prime time lineup of two of the five covered networks for a representative week, showing blocks of time that include descriptions (noting where programming is repeated and thereby may not qualify toward the hours requirement under the video description rules), and where programs cannot include descriptions because they are “live/near live” or include Spanish in the secondary audio stream.

⁵ See NCTA Comments at 14-15. Several commenters suggested ways the Commission might provide flexibility. See, e.g., *id.* at 15-16; TWI Reply Comments at 5-7; NAB Reply Comments at 18-19.

⁶ See NCTA Comments at 18-19.

USA NETWORK						
Date	8:00 PM - 8:30 PM	8:30 PM - 9:00 PM	9:00 PM - 9:30 PM	9:30 PM - 10:00 PM	10:00 PM - 10:30 PM	10:30 PM - 11:00 PM
9/9/2016	Modern Family 8:00 - 8:30	Modern Family 8:30 - 9:00	Modern Family 9:00 - 9:30	Modern Family 9:30 - 10:00	Modern Family 10:00-10:30	Modern Family 10:30 - 11:00
9/10/2016	Need for Speed 8:00 - 11:00					
9/11/2016	Law and Order: Special Victims Unit 8:00 - 9:00		Law and Order: Special Victims Unit 9:00 - 10:00		Law and Order: Special Victims Unit 10:00 - 11:00	
9/12/2016	WWE Monday Night Raw 8:00 - 11:05					
9/13/2016	WWE Smackdown 8:00 - 10:00				Chrisley Knows Best 10:01 - 10:31	Chrisley Knows Best 10:31 - 11:01
9/14/2016	Law and Order: Special Victims Unit 8:00 - 9:00		Suits 9:00 - 10:03		Mr. Robot 10:03 - 11:10	
9/15/2016	Law and Order: Special Victims Unit 8:00 - 9:00		Law and Order: Special Victims Unit 9:00 - 10:00		Queen of the South 10:00 - 11:00	

Live/Near-Live
Spanish in SAP
DVS
Repeat
Repeat with DVS

Note: Per FCC rules, certain repeats may not be counted toward the 50 hour requirement.

TBS NETWORK						
Date	8:00 PM - 8:30 PM	8:30 PM - 9:00 PM	9:00 PM - 9:30 PM	9:30 PM - 10:00 PM	10:00 PM - 10:30 PM	10:30 PM - 11:00 PM
9/9/2016	Stand Up to Cancer 8:00 - 9:00		Big Bang Theory 9:00 - 9:30	Big Bang Theory 9:30 - 10:00	Eleague 10:00 - 11:00	
9/10/2016	Big Bang Theory 8:00 - 8:30	Big Bang Theory 8:30 - 9:00	Big Bang Theory 9:00 - 9:30	Big Bang Theory 9:30 - 10:00	Big Bang Theory 10:00 - 10:30	Big Bang Theory 10:30 - 11:00
9/11/2016	Big Daddy 8:00 - 10:00				Big Daddy 10:00 - 12:00	
9/12/2016	Family Guy 8:00 - 8:30	American Dad! 8:30 - 9:00	American Dad! 9:00 - 9:30	Family Guy 9:30 - 10:00	Family Guy 10:00 - 10:30	Full Frontal with Samantha Bee 10:30 - 11:00
9/13/2016	Big Bang Theory 8:00 - 8:30	Big Bang Theory 8:30 - 9:00	Big Bang Theory 9:00 - 9:30	Big Bang Theory 9:30 - 10:00	Big Bang Theory 10:00 - 10:30	Big Bang Theory 10:30 - 11:00
9/14/2016	Big Bang Theory 8:00 - 8:30	Big Bang Theory 8:30 - 9:00	Big Bang Theory 9:00 - 9:30	Big Bang Theory 9:30 - 10:00	Big Bang Theory 10:00 - 10:30	Big Bang Theory 10:30 - 11:00
9/15/2016	2 Broke Girls 8:00 - 8:30	2 Broke Girls 8:30 - 9:00	Big Bang Theory 9:00 - 9:30	Big Bang Theory 9:30 - 10:00	2 Broke Girls 10:00 - 10:30	2 Broke Girls 10:30 - 11:00

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